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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,922	02/09/2001	Omar M. Buazza	5040-04207	9323
7590 10/18/2004			EXAMINER	
ERIC B. MEYERTONS MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			JARRETT, RYAN A	
			ART UNIT	PAPER NUMBER
			2125	
DATE MAILED: 10/18/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/780,922

Applicant(s)

BUAZZA ET AL.

Examiner

Ryan A. Jarrett

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 278-286, 288-292 and 443-448 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 278-286, 288-292 and 443-448 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/4/04, 8/9/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 278-286, 288-292, 443-448 are pending in the application.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 278-286, 288-292, and 443-448 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a computer software program that is not tangibly embodied on or in some form of computer readable medium.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 448 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
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Claim 448 recites the limitation "the intensity" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 278-284, 288-292, and 443-447 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0318164 A2 ("Kachel"). Kachel discloses a computer software program for determining a front mold, a back mold and a gasket which together produce a mold cavity, the mold cavity being configured to hold a lens forming composition, wherein the lens forming composition is at least partially cured by activating light to produce an eyeglass lens having a predetermined prescription and wherein the software program comprises a plurality of instructions configured to perform operations comprising:

analyzing prescription information to determine the front mold, the back mold, and the gasket for producing the eyeglass lens (e.g., pg. 4 lines 1-25 and lines 35-41);  
and determining curing conditions for a lens based on the eyeglass prescription (e.g., pg. 6 lines 38-58, pg. 12 lines 29-35, pg. 17 lines 45-54), wherein the curing conditions comprise a dosage of activating light, and wherein the prescription information is

Art Unit: 2125

analyzed to determine the dosage of activating light required to at least partially cure the lens forming composition (e.g., pg. 6 lines 38-58, pg. 17 lines 45-54);

wherein the prescription information comprises a sphere power, a cylinder power, and a lens location; wherein the prescription information comprises a sphere power, a cylinder power and a lens location, and wherein the prescription information is analyzed by correlating the sphere power, cylinder power and the lens location to a record in an information database; wherein the prescription information further comprises monomer type (inherent) and lens type; wherein the prescription information comprises a sphere power, a cylinder power, an add power and a lens location; wherein the prescription information comprises a sphere power, a cylinder power, an add power, and a lens location and wherein the prescription information is analyzed by correlating the sphere power, the cylinder power, the add power, and the lens location to a record in an information database (e.g., pg. 12 lines 52-58, Fig. 17A);

wherein the operations further comprise: controlling a lens curing unit, the lens curing unit being configured to cure the lens forming composition, wherein controlling the lens curing unit comprises operating the lens curing unit such that the curing conditions are produced (e.g., pg. 6 lines 38-58, pg. 12 lines 29-35);

wherein the operations further comprise allowing the eyeglass prescription to be altered after the eyeglass prescription is collected (e.g., pg. 12 lines 52-58, pg. 13 lines 1-9);

wherein the operations further comprise storing the eyeglass prescription on a computer readable media (e.g., pg. 12 lines 52-58, pg. 13 lines 1-9);

Art Unit: 2125

wherein the operations further comprise controlling a coating unit, the coating unit being configured to cure the lens forming composition (e.g., pg. 9 lines 50-58, pg. 14 lines 32-44);

collecting prescription information which defines the eyeglass prescription (e.g., pg. 4 lines 17-20);

wherein the dosage of activating light comprises an intensity of activating light required to at least partially cure the lens forming composition (e.g., pg. 6 lines 38-58, pg. 17 lines 45-54);

wherein the curing conditions comprise an amount of time required for post-cure; wherein post-cure time comprises an amount of time required for treating the at least partially cured lens composition with heat and additional activating light in a post-cure unit (e.g., pg. 18 lines 1-4);

wherein the curing conditions comprise an amount of time required for annealing the formed eyeglass lens (e.g., pg. 12 lines 52-58).

8. Claims 278-284, 288-292, and 443-448 are additionally rejected under 35 U.S.C. 102(e) as being clearly anticipated by Powers U.S. Patent No. 6,228,289 (e.g., col. 2 line 45 – col. 7 line 56).

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***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2125

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 285-286 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0318164 A2 ("Kachel") as applied to claim 278 above. Kachel does not disclose that the front mold identification marking comprises an alphanumeric sequence, and that the back mold identification marking comprises an alphanumeric sequence, and that the gasket identification marking comprises an alphanumeric sequence; wherein the operations further comprise producing a visual display of the front mold identification marking, the back mold identification marking, and the gasket identification marking subsequent to analyzing the prescription data.

However, Kachel does disclose that the front mold identification marking comprises a barcode, and that the back mold identification marking comprises a bar code, and that the gasket identification marking comprises a bar code (pg. 4 lines 35-41). Kachel also discloses a visual display means for indicating which gasket and mold are required for a given prescription (pg. 4 lines 9-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mark the molds and gaskets of Kachel with an alphanumeric sequence and to visually display this number subsequent to analyzing the prescription data because Kachel discloses marking the molds and gaskets with a barcode, which is functionally equivalent to marking the molds and gaskets with an alphanumeric sequence, and Kachel also discloses visually displaying the selected molds and gaskets, which is

Art Unit: 2125

functionally equivalent to displaying the alphanumeric sequence of the molds and gaskets.

11. Claims 448 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kachel as applied to claim 278 above, and further in view of Powers U.S. Patent No. 6,228,289. Kachel does not appear to disclose that determining the intensity comprises analyzing the prescription information and determining a type of filter to be used in the lens-curing unit. However, Powers discloses an apparatus and method for preparing an eyeglass lens that determines an intensity of activating light of a lens curing unit by analyzing prescription information and determines a type of filter to be used in the lens curing unit (e.g., col. 3 lines 49-57). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kachel with Powers since Powers teaches that different filters can be used to obtain different intensity values of activating light in a lens curing unit. Additionally, Powers teaches that one advantage of using a "programmable intensity" LCD panel filter is that a pattern may be altered during a curing cycle. For example, the pattern of light and dark regions may be manipulated such that a lens is initially cured from the center of the lens, then the curing may be gradually expanded to the outer edges of the lens. This type of curing pattern may allow a more uniformly cured lens to be formed (col. 3 lines 18-32).

12. Claims 285-286 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers as applied to claim 278 above, and further in view of Kachel EP 0318164 A2.



Powers does not appear to disclose that the front mold identification marking comprises an alphanumeric sequence, and that the back mold identification marking comprises an alphanumeric sequence, and that the gasket identification marking comprises an alphanumeric sequence; wherein the operations further comprise producing a visual display of the front mold identification marking, the back mold identification marking, and the gasket identification marking subsequent to analyzing the prescription data.

However, Kachel discloses a front mold identification marking comprising a barcode, and a back mold identification marking comprising a bar code, and a gasket identification marking comprising a bar code (pg. 4 lines 35-41). Kachel also discloses a visual display means for indicating which gasket and mold are required for a given prescription (pg. 4 lines 9-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mark the molds and gaskets of Powers with an alphanumeric sequence and to visually display this number subsequent to analyzing the prescription data since Kachel teaches marking molds and gaskets with a barcode, which is functionally equivalent to marking the molds and gaskets with an alphanumeric sequence, and Kachel also discloses visually displaying the selected molds and gaskets, which is functionally equivalent to displaying the alphanumeric sequence of the molds and gaskets.

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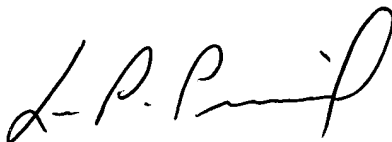
**Conclusion**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan A. Jarrett whose telephone number is (571) 272-3742. The examiner can normally be reached on 10:00-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10/15/04



Ryan A. Jarrett  
Examiner  
Art Unit 2125

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SUPERVISORY PATENT EXAMINER  
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